

REMARKS

Status of the Claims

Claims 6-16 are presented. No claims are amended. No claims are cancelled. No new claims are added.

No new matter has been introduced.

Summary of the Invention as Claimed

Claims 6 – 10 are directed to self-curing and/or radiation-curing flatted coating systems containing a flattening agent comprising a liquid dimerdol(meth)acrylate with a degree of esterification of at least 50%.

Claims 11 – 16 are directed to a process for producing a flatted coating comprising (a) introducing into a self-curing or radiation-curing coating system a liquid dimerdol(meth)acrylate flattening agent with a degree of esterification of at least 50% to form a flatted coating system, (b) applying a coating of the flatted coating system to a substrate, and (c) curing the coating.

The Pending Claims are Patentable

Claims 6-8, 10-13 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fies et al. (CA 2307565; "Fies"). Applicants respectfully traverse this rejection.

Fies discloses (meth)acrylates of dimerdol **alkoxylates**, containing 1-80 moles of ethylene and/or propylene oxide, as constituents for radiation-cured coatings.

With respect, it seems that the Examiner has failed to observe that Fies requires the use of a dimerdol which has been **alkoxylated** with 1-80 moles, preferably 2-20 moles, of ethylene oxide and/or propylene oxide. It is these alkoxylated materials which Fies uses in constructing his (meth)acrylate ester constituents for radiation-cured coatings. Fies provides no indication of the

flattening properties of the highly alkoxyated (meth)acrylates of dimerdiol. At a minimum, applicants submit that the statement of the Examiner that "[t]he flattening properties of the composition are inherent to its components" (Office Action, page 2, number 2) is not applicable in the present case since it is apparent that the compounds used are not identical.

Claims 6-8, 10-13 and 15 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Mochizuki et al. (JP 10-218946, "Mochizuki").

Mochizuki discloses heat-or energy-curable compositions containing (meth)acrylate esters of dimerdiol alkoxyates of specific formula $HO(XO)_mZO(YO)_nH$, wherein Z is a dimerdiol residue and X/Y are C2-4 alkylene, and the sum $m+n$ is between 2 and 40. Applicants respectfully traverse this rejection as well. Again with respect, it seems that the Examiner has failed to observe that Mochizuki requires the use of a dimerdiol which has been **alkoxyated** with 2-40 moles of an alkylene oxide in constructing his (meth)acrylate ester constituents for heat- or energy-curable coatings. Again, the Examiner's assumption that the flattening properties are the same as those claimed by Applicants is clearly improper in view of the fact that the constituents are not identical.

Claims 9, 14 and 16 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Fies or Mochizuki in view of Sigel et al. (US 6,572,932, "Sigel"). Applicants respectfully traverse this rejection as well. In making this rejection the Examiner has acknowledged that neither Fies nor Mochizuki teaches the use of a solid flattening agent in their compositions. As described above, neither Fies nor Mochizuki are applicable to the present invention, each disclosing different molecules than those required by the above-noted claims. Sigel discloses a composition and method of preparing the composition for controlling the gloss of coating products using a conventional flattening agent, for example silica, hard particles to improve abrasion resistance of the final surface wearlayer, and at least one free-radical generating compound, and wherein the **gloss is controlled by varying the UV peak irradiance** of the UV light energy

(col. 2, line 25-38). Controlling the gloss/flatting by UV irradiation is dramatically different from gloss/flatting control by the addition of Applicants' liquid dimerdiol (meth)acrylates, with or without the conventional solid flatting agent (eg silica). It is respectfully submitted that Sigel is not relevant art.

In addition, Sigel discloses that his polymer base is preferably an aromatic polyester acrylate (abstract; col. 4, lines 46-53). This is in contrast to Applicants' dimerdiol (meth)acrylates, which are not aromatic. Also note that the emphasis in Sigel is on gloss control by UV irradiation of the applied composition vs. Applicants' control by addition of the dimerdiol (meth)acrylate, which is the flatting agent, and not the polymer base.

Thus, Fies, Mochizuki, and Sigel are not relevant references for obviousness rejections. It is respectfully requested that the Examiner reconsider and withdraw her rejections.

Nonstatutory Double Patenting Rejection

Claims 6-16 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 15-26 of copending Application No. 10/553,483, Attorney Docket No. C 2632 US. Since there has been no indication of allowable subject matter, and in view of the provisional nature of this rejection, applicants respectfully request that they will consider the filing of an appropriate terminal disclaimer at when and if allowable subject matter is indicated to exist in the present application. Accordingly, the Examiner is respectfully requested to hold this rejection in abeyance until prosecution of 10/553,483 and the present application are each more advanced.

Conclusion

In view of the above arguments applicants believe that the pending claims are in condition for allowance. The Examiner is respectfully requested to

reconsider and withdraw her rejections and to provide at the earliest possible time a Notice of Allowance for the pending claims.

Respectfully submitted,

December 29, 2008
Date

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